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IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.NO. 292 /2003

WRIT PETITION UNDER ARTICLES 226 / 227 OF THE CONSTITUTION OF INDIA.

PETITIONER

Rajbahadur Singh, son of Shri Ramchandra Singh, aged about 33 years, residence of Ring Road, Boripara, Ambikapur, (Behind School), District – Surguja (Chhattisgarh).

VERSUS

RESPONDENTS

1. State of Chhattisgarh, through : Principal Secretary, Tribal Welfare Department, D.K.S. Bhawan, Raipur (Chhattisgarh).

2. Commissioner, Tribal Department, D.K.S. Bhawan, Raipur (Chhattisgarh).

3. Collector, Surguja, at Ambikapur, Distt – Surguja (Chhattisgarh).

4. Director Bishop – House, Catholic Dysis Schools Nayapara, Ambikapur, Distt. – Surguja (Chhattisgarh).

5. Principal, Prabhat Higher Secondary School, Rai Raghunathpur, Tah. Lundra, District – Surguja (Chhattisgarh).

P. R. No. 178/03
Presented by Shri Arun Sao
dated 16.01.03

शपथ आयुक्त
एस. के. शुक्ला
बिलासपुर (छ.ग.)
16/1/03
बिलासपुर तहसील कोर्ट

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 292 of 2003

Petitioner Rajbahadur Singh

Versus

Respondents State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Present: Shri R.N. Jha, Advocate for the petitioner.
Shri A.S. Kachwaha, Deputy Govt. Advocate for the respondents No. 1 to 3/State.
Shri A.K. Prasad, Advocate for the respondents No. 4 & 5.

O R D E R

(27th November, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. According to learned counsel for the petitioner, the petitioner was appointed as U.D.T. in Prabhat Higher Secondary School, Rai Raghunathpur, Tahsil Lundra, District- Surguja in the year 1994 and thereafter, he was recruited on the post of Lecturer vide order dated 26.6.1995 (Annexure P/2). Order dated 26.6.1995 (Annexure P/2) appears to be an order recruiting the petitioner on the post of Lecturer followed by formal order dated 1.7.1995 (Annexure R-4/1).

2. Term of the appointment of the petitioner was for a period of 4 years from 1.7.1995 to 30.6.1999. On the expiry of the term of the appointment, services of the petitioner was discontinued.

3. The petitioner has filed this writ petition on 16.1.2003, after a period of about three and half years seeking relief/direction to

quash the order dated 11.5.1999 whereby the petitioner was relieved from his service. The petitioner has further prayed for arrears, D.A., increment, G.P.F. etc. along with interest @18% per annum.

4. It is well settled principle of law that the temporary, adhoc or contract appointees have no legal right to the post. Thus, the petitioner cannot claim for regularization/absorption or continuation in the service.

5. The Constitutional Bench of the Supreme Court in the case of **Secretary, State of Karnataka & others Vs. Umadevi (3) and others**[1], in para 44 has held as under:-

> *"44. ..... It would not be just or proper to pass an order in exercise of jurisdiction under Article 226 or 32 of the Constitution or in exercise of power under Article 142 of the Constitution permitting those persons engaged, to be absorbed or to be made permanent, based on their appointments or engagements. Complete justice would be justice according to law and though it would be open to this Court to mould the relief, this Court would not grant a relief which would amount to perpetuating an illegality."*

6. In the case of ***Secretary, State of Karnataka and others*** *(Supra)* the Supreme Court has laid down clear enunciation of law which was followed later on in various decisions by the Supreme Court. Some are ***Accounts Officer (A&I) A.P.SRTC and others vs. P. Chandra Sekhara Rao and others***[2], ***Surinder Prasad Tiwari vs. U.P. Rajya Krishi Utpadan Mandi Parishad and others***[3], ***Nagar Mahapalika (now Municipal Corpn.) vs. State of U.P. and others***[4] and ***U.P. State Road Transport Corporation vs. Man Singh***[5].

7. In the case of ***Secretary, State of Karnataka and others*** (Supra), the Supreme Court observed as under :-

> *"45. While directing that appointments, temporary or casual, be regularised or made permanent, the courts are swayed by the fact that the person concerned has worked for some time and in some cases for a considerable length of time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the employment with open eyes. It may be true that he is not in a position to bargain – not at arm's length – since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible."*

> *"47. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognised by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in cases concerned, in consultation with the Public Service Commission."*

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8. For the reasons above-stated and as per the dicta laid down by the Supreme Court, the petitioner is not entitled to continuation/permanent status or regularization in the service.

9. This petition is accordingly dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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1 (2006) 4 SCC 1
2 (2006) 7 SCC 488
3 (2006) 7 SCC 684
4 2006 AIR SCW 2497
5 2006 AIR SCW 5159

Subhash